

Testimony of Ron Bruno
President of the
Community Broadcasters Association
(CBA)
before the
Subcommittee on
Telecommunications and the Internet
Committee on Energy and Commerce
February 13, 2008

Mr. Chairman, Mr. Ranking Member and distinguished Members of the Subcommittee:

My name is Ron Bruno, and I am President of the Community Broadcasters Association (CBA), the trade association of the nation's Class A and low power television stations (LPTV). Our stations provide important programming to audiences throughout the country, including local news, sports and public affairs to underserved communities, as well as religious, Spanish language and other ethnic programming. I am honored to be here today to discuss how the digital converter box program, and the transition generally, will affect our industry.

More than 10 years ago, Congress and the FCC gave full power stations second channels on which to operate their digital stations. Low power stations were not given a second channel at that time because LPTV stations are a secondary service. Our industry has been told for the last 10 years that we would get our digital channel assignments when all of the full power stations were "taken care of". Only 6 months ago, LPTV stations started to get their digital channels granted by the FCC. To date, only 35% of LPTV stations have been granted a second channel.

To put this in perspective, there are 567 Class A Stations, 2227 Low Power stations and 4,418 translator stations that will not be making the transition in February of next year. To be clear, that is 80% of the stations in the country will continue to broadcast in analog after February of 2009. Our industry was under the impression that adequate time would be provided to our stations to make the transition once our second channels were received. Unfortunately, the digital converter box program currently in use, funded by tax payer dollars and administered by a government agency, cuts our industry's conversion time to zero and to the point where bankruptcy is the logical result for most of our stations.

Not that long ago, Congress mandated NTIA to develop rules for manufacturers to follow to build these boxes. Despite the CBA and the translator stations commenting to NTIA about the continued analog operation of our stations, NTIA determined that including an analog tuner in the box was a violation of the mandate. Therefore all boxes that have been certified by the NTIA and manufactured do not have an analog tuner. Only three of the over 30 boxes certified by the NTIA even "pass through" analog signals, albeit in a manner that will likely lead to consumer confusion in installation and use.

In a few days the public will start to receive \$40 coupons from NTIA for a DTV conversion box. These people will go and buy a box. If they have purchased one of the vast majority of the boxes certified by the NTIA, once they get home and plug it in they will realize that they will lose their ability to receive analog broadcasts continuing to be transmitted from about 80% of the nation's TV transmitter facilities. Local programming, religious services, high school sports, foreign language channels and political debates carried locally will not be able to be seen in these homes with the bad converter box. This will cause confusion and anger among the general public when they can no longer watch the local programming that they have previously enjoyed and relied upon.

And with each such box sold, that is one less viewer for a Class A, low power or translator station. With the expectation of sales being in the vicinity of 30 million boxes, without a speedy and effective remedy, our industry is simply out of business Mr. Chairman. And with the extinction of Class A television stations goes the only mandated locally produced programming on television.

The CBA believes that the manner in which NTIA implemented this program is in violation of long standing requirements mandated by Congress in the All Channel Receiver Act; and while we have filed a Petition for Declaratory Ruling to this effect at the FCC and may indeed have no choice but to take our case to the courts, we remain cautiously optimistic that Congress, the NTIA and the FCC will do the right thing for our industry.

We understand that FCC Chairman Martin and his staff have a comprehensive proposal to help our stations. We applaud Chairman Martin and all of his staff for working so hard with us on this issue. We also applaud other industry groups like the NAB for their help to get educational efforts out to consumers so that they will not get stuck with the bad DTV Converter boxes that only receives digital signals. And while we look forward to the actions of the Commission on issues relating to our industry, other steps need to be taken to ensure the survival of these 7,212 stations and the important service they provide to the public.

First, the CBA requests that the Congress mandate the NTIA, going forward, to only authorize converter boxes that are equipped with both analog and digital tuners. We also suggest that the 90 day expiration date on the coupon is overly burdensome to consumers and should be changed to 180 days. In stores where boxes with analog and digital tuners are not available consumers should be allowed to use coupons for other devices that do have analog and digital tuners. Because our industry is being effectively forced into the transition significantly faster than anticipated, and much faster than full power stations, which had 10 years and much greater resources than we do to make this transition, we respectfully request that the NTIA be provided additional funds to assist Class A, low power and translator stations with the transition and any such funding should be made available to stations this year.

Lastly, and I can't stress this enough, the CBA has put forth a proposal to the Congress for the last three years that would have expedited and will expedite our industry's transition to digital. Specifically, our proposal calls for Class A stations to be given limited cable carriage rights on the basic digital tier in exchange for foregoing the second channel to which we are entitled, thus freeing up spectrum and avoiding interference issues. The proposal is reasonable and it is fair, and I only hope that this Committee will seriously consider this proposal in the very near future. Our industry's existence may very well depend on it.

Mr. Chairman I appreciate your time today and look forward to answering all of your questions.